

Remarks

Following the above amendments, claims 1-20 are pending in this application. Claims 13 and 19 are amended to repair typographical mistakes. Examiner has rejected claims 1-20 as being obvious under 35 U.S.C. 103(a) over Keller et al. (U.S. Patent No. 6,289,396) in view of alleged applicant admitted prior art.

A. A Service Layer Compiled Against the Kernel of an Operating System

Applicants respectfully submit that a prima facie case of obviousness has not been established and that a rejection of the pending claims on obviousness grounds is improper. A prima facie case of obviousness requires a showing that all of the claim limitations of the rejected claims are taught or suggested by the prior art. Manual of Patent Examining Procedure 2143 and 2143.03. The establishment of a prima facie case of obviousness requires that *all* the claim limitations be taught or suggested by the prior art. MPEP 2143.01 (emphasis added). “All words of a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson* , 424 F.2d 1382, 1385, 165 U.S.P.Q. 494, 496 (CCPA 1970).

Applicants respectfully submit that Keller is not directed to the same technology as the invention of the present application and is silent on several matters of Applicants’ claims that are also not found in the alleged applicant admitted prior art. The present application discloses and claims a system and method for providing device driver support in an open source operating system. The disclosed system and method alleviates the necessity of redeveloping or installing new device drivers each time an open source operating system may be modified. This approach allows “proprietary information of the computer system manufacturer [to be] protected against disclosure.” Present Invention, page 7. Independent claims 1, 8, and 13 of the application are directed to a service layer wherein the service layer is *compiled* against the kernel

of an operating system. The service layer acts as an interface between the kernel of the operating system and an executable module of a device driver.

Keller and the alleged applicant admitted prior art, whether considered alone or in combination, do not disclose or suggest the elements of pending claims 1-20. Specifically, but without limitation, each of Keller and the admitted prior art do not teach the use of a service layer compiled against the kernel of the operating system that acts as an interface between the operating system kernel and the executable module of a device driver. According to the Examiner, Keller discloses the claimed step of “compiling the service layer against the kernel of the operating system.” Examiner cites the following passage of Keller as disclosing the step of compiling a service layer against the kernel of the operating system:

The shell module 72 is the initial component of the device driver 50 loaded into memory 16 as part of the initialization of the operating system kernel 56 during system startup.

(Keller, col. 7, lines 61-63). This description in no way teaches the step of *compiling* a service layer. Compiling is the process whereby computer programs written in a high level programming language are translated into a machine readable and executable format. *The American Heritage Dictionary of the English Language, Fourth Edition*. Compilation does not occur as part of the initialization of the operating system kernel during startup. The process the examiner cites only describes the loading and execution of an already compiled program. As a result, the restriction “compiling the service layer” found in claims 1, 8, and 13 is not taught or disclosed by Keller.

Keller also does not suggest compiling a service layer against the kernel of an operating system. Keller teaches a process and device that enables a controller device to operate in different modes under a single operating system within a computer system. (col. 3, lines 38-50) Keller accomplishes this process and device by including with a device driver

a plurality of operating system interface objects, each presenting an operating system interface to the operating system, a plurality of computer interface objects each providing for the generation of programming values to be applied to the computer interface to establish the operating mode of a respective predetermined sub-element of the controller device, and a device driver library of processing routines callable by each of the operating system interface objects to process data and generate calls to the computer interface objects in predetermined combinations. (col. 3, lines 24-33)

(Keller, column 3, lines 24-33). Applicants' invention is of an entirely different nature than Keller. Keller teaches supporting multiple controller device operating modes through the use of a plurality of operating system interface objects and computer interface objects. Applicants' invention allows a computer system to use pre-installed pre-compiled drivers after an open source operating system is modified by *compiling* a service layer with the modified operating system and using the service layer as an interface between the drivers and the operating system. None of the objects in Keller are *compiled* against the kernel of the operating system, and Keller does not disclose a system or method for maintaining the use of existing installed drivers when the operating system for a computer system is modified.

Finally, the allegedly admitted prior art does not disclose or suggest compiling a service layer against the kernel of the operating system. (Application, pages 2-5). As a result, a prima facie case of obviousness has not been established as all of the claim limitations of the rejected claims are not taught or suggested by the prior art. Applicants respectfully submit that independent claims 1, 8, and 13 are patentable over both Keller and the allegedly admitted prior art.

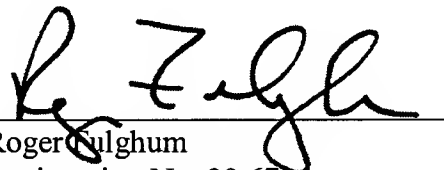
B. Dependent Claims 2-7, 9-12, and 14-20

Dependent claims 2-7, 9-12, and 14-20 will not be discussed individually herein, as each of these dependent claims depends, either directly or indirectly, from an otherwise allowable base claim.

Conclusion

The applicants respectfully submit that pending claims 1-20 of the present invention are allowable. The applicants respectfully request that these claims be passed to issuance.

Respectfully submitted,


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Baker Botts Docket Number: 016295.0732

Date: March 18, 2005